

Appl. No. 09/181,533  
Amdt. dated April 7, 2004  
Reply to Office Action of June 22, 2004

PATENT

**REMARKS/ARGUMENTS**

Claims 1-32 are pending in the current application. Claims 1-25 are rejected. Claims 26-32 were withdrawn from consideration.

Independent claims 1, 16 and 25 are amended herein. These amendments are fully supported by the specification, drawings and claims as originally filed; no new matter has been added. Claim 33 is newly presented and is fully supported by the specification, drawings and claims as originally filed; no new matter has been added (See for example, Figures 5-6 and 11-13 ),

Claims 1-13, 15-17 and 20-25 stand rejected under 35 U.S.C. §103(a) as unpatentable over Epley. U.S. Pat. No. 4,756,312 (Epley), in view of Grad U.S. patent 5,811, 896 (Grad).

Claim 14 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Epley as applied to Claim 1 above and further in view of U.S. Pat. No. 5,233,322 (Posey '322).

Entry of the requested amendments and favorable consideration of the comments contained herein are requested.

**REJECTION UNDER 35 U.S.C. §103(a)**

Claims 1-13, 15-17 and 20-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Epley in view of Grad '896 (See 6/22/04 Office Action, at page 2). Applicants respectfully traverse this rejection. However, in the interest of expediting prosecution and without acquiescing to the propriety of the rejection, Applicants have amended claims 1 and 15 to recite that "the externally applied magnetic field is generated by a magnetic field means that is substantially located outside of the ear canal or not in substantial contact with hearing device." These amendments are fully supported by the Specification and drawings as originally filed (See the Specification, e.g., at page 10, lines 12-17; and Figures 4-6 and 11-12).

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Epley alone or in combination with Grad, does not teach or reasonably suggest a magnetic field means that is substantially located outside of the ear canal or not in substantial contact with hearing device. In fact, Epley teaches just the opposite, in that it's magnet is physically engaged to its hearing device while the device is in the ear. (See Epley at Col 8. lines 49-54 and Figure 1). Accordingly, withdrawal of the rejection is respectfully requested.

In regard to claim 21, Applicants have amended the claim to include "activating the reed switch with the control magnet means substantially physically disengaged from the hearing device." As described *supra*, Epley teaches away from the method of claim 21, in that its magnetic control means is engaged, versus disengaged, with its hearing aid. Accordingly, withdrawal of the rejection of claim 21 is respectfully requested.

Claims 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Epley in view of Posey (See 6/22/04 Office Action, at page 8). Applicants respectfully submit that this rejection is now moot in light of the amendment of claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and request that the application be passed to issue at an early date.

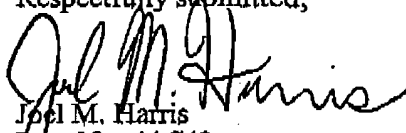
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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

It is believed that no fees are due with this response; however, should any fees be required under 37 C.F.R. §§ 1.16 to 1.21 for any reason, the Commissioner is authorized to charge Deposit Account No 20-1430.

Respectfully submitted,

  
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